

REMARKS

Claims 1-18 are pending in the application upon entry of the amendments and new claims. Claims 1-6 have been amended to better describe the invention and to further disclaim the cited art. Claims 8-18 have been added to further describe the invention. Favorable reconsideration in light of the amendments, new claims, and remarks that follow is respectfully requested.

The Amendments and New Claims

Claims 1-6 are amended to recite "using active dilution" to further disclaim the cited art. Support exists in the specification, for example, on page 3, lines 15-17. Support for new claims 8-12 exists in the specification, for example, on page 2, lines 31-32. Support for new claims 13-18 exists in the specification, for example, on page 3, lines 11-13 and more specifically in U.S. Patent 6,294,108 incorporated by reference at column 4, line 48 through column 6, line 3.

The Rejection

Claims 1-7 are rejected under 35 U.S.C. § 102(b) over U.S. Patent No. 5,974,810 to Speronello. Speronello appears to teach that a fluctuation in the rate of chlorine dioxide gas production may occur without delirious effects on preservation (col. 6, ln. 12-15); however, the fluctuation referred to appears to be random rate fluctuations that occur due to environmental variables that are not being controlled.

In order for an anticipation rejection to be proper, one prior art document must disclose every feature of a claim. Claims 1-6 are independent claims, which only vary in the ranges of chlorine dioxide concentration recited. All independent claims, as amended, recite the following features: 1) exposure of an article to a first concentration; 2) actively reducing chloride dioxide concentration to a second concentration, where the second concentration is lower than the first concentration; and

3) exposure of the article to a third concentration, with a value between the first concentration and the second concentration, by introducing additional chloride dioxide.

Speronello does not disclose taking any deliberate action to vary the chlorine dioxide concentration or rate of chlorine dioxide gas production during treatment. The independent claims, as amended, recite the concentration of chlorine dioxide gas being actively reduced. Speronello does not disclose, teach or suggest any benefit to be derived from intentionally, actively reducing the concentration of chlorine dioxide.

Further, Speronello does not teach or enable one skilled in the art to execute the specific sequence of changes in chlorine dioxide concentration taught by the application. The claims are directed to reduction from a first to a second chlorine dioxide concentration followed by a deliberate "introduction" of chlorine dioxide to obtain a third concentration intermediate to the first and second concentrations. The term "introducing" (to raise the concentration to the third concentration from the second concentration) is by the dictionary definition of the verb "to introduce" limited to a deliberate act or planned set-up to achieve such a result. A person with ordinary skill in the art will interpret the word "introducing" as being limited to one of adding more chlorine dioxide generating material, deliberately changing ambient conditions to affect the release of more chlorine dioxide, or changing a rate of exhaust from the space being treated. A teaching that the concentration of chlorine dioxide gas, as disclosed by Speronello, may fluctuate (due to random conditions) without having delirious effects DOES NOT ENABLE OR MOTIVATE a person of ordinary skill in the art to perform the specific fluctuation of chlorine dioxide gas concentration recited by the claims. Since Speronello does not teach actively reducing the concentration of chlorine dioxide gas and Speronello does not teach the specific fluctuation in concentration recited by claims 1-6, Speronello cannot anticipate claims 1-6.

Claim 7 depends from claim 1 and incorporates all the features of claim 1. Therefore, claim 7 is not anticipated for at least the same reasons claim 1 is not anticipated. Therefore, it is respectfully requested that the rejection of claims 1-7 under 35 U.S.C. § 102(b) be withdrawn.

Petition for Extension of Time

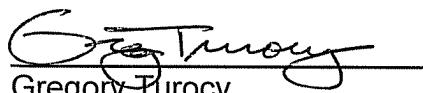
A request for a three month extension of time is hereby made. Payment is being made through the EFS electronic filing system.

Should the Examiner believe that a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact Applicant's undersigned attorney at the telephone number listed below.

In the event any fees are due in connection with the filing of this document, the Commissioner is authorized to charge those fees to our Deposit Account No. 50-1063.

Respectfully submitted,

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